



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
726 MINNESOTA AVENUE
KANSAS CITY, KANSAS 66101

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Rose, Martha
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6-5-86

JUN 5 1986

James R. Anderson, Esq.
818 Grand
Kansas City, Missouri 64106

Re: Martha C. Rose Chemicals, Inc.
Docket No. 86-F-0006



40030510
SUPERFUND RECORDS

Dear Mr. Anderson:

I am forwarding this letter to you to provide a summary of the understandings and agreements reached during our meeting on June 3, 1986. At the meeting, you appeared as the attorney representing Martha C. Rose Chemicals, Inc., American Steel Works, Inc., W.C. Carolan Company, Inc., and Walter C. Carolan (referred to collectively hereafter as the Carolan group) in the above-referenced matter.

With respect to the immediate response actions required by the Administrative Order, you and your client committed to EPA that the Carolan group will provide sufficient personnel (a total of eight by Friday, June 6, 1986) to timely address environmental concerns resulting from the May 1986 spill of PCB contaminated oil. All eight individuals to be supplied by the Carolan group will actively be engaged in full time spill clean-up operations and are in addition to personnel providing supervision or otherwise engaged in activities at the site unrelated to spill clean-up. Actions that will immediately be undertaken include: (1) the excavation and proper containerization of PCB contaminated soils/sediments from the East Branch of Pin Oak Creek; (2) excavation and proper containerization of contaminated soil around the storm sewer manhole (where the contaminated oil entered the storm sewer); and (3) removal of contaminated oil and soil from the storm sewer line and collection ponds (including decontamination of both segments of the storm sewer line).

The Carolan group will submit a sampling and analysis plan to EPA by 5:00 p.m., June 5, 1986. This plan will address the number and type of samples, as well as the manner of

collection, that will be taken to verify the effectiveness of the spill clean-up activities. Also to be submitted by 5:00 p.m., June 5, 1986, by the Carolan group is a plan, for construction of a chain-link security fence enclosing the facility, for the providing of twenty-four (24) hour security, for the posting of the facility, and for providing an adequate warning and notification system (see paragraph 5 of the Order). While not specifically discussed at the meeting, this plan should also address paragraphs 1(b) and 1(c) of the Order. With respect to final response actions and the submittal of an inventory/disposal plan, neither the Carolan group nor Environmental Technology, Inc. were willing at the time of the meeting to commit to undertaking that action. The agency has agreed to extend the deadline for submitting the inventory/disposal plan to 5:00 p.m., June 17, 1986.

Please be advised, as a condition of this extension that EPA expects, upon the submittal of any plan pursuant to the Order (i.e. - sampling, security or inventory/disposal), the Carolan group will at that time provide assurances that the plan can be and will be implemented immediately upon approval by EPA. Each plan submitted to EPA must identify the source of funds for implementation of that plan, and certify that funds are available. Implementation of a plan cannot be conditioned upon obtaining future financial assistance from third parties. Funds for implementation must be available prior to submission of a plan.

Throughout the June 3 meeting, you represented to EPA that the Carolan group may be or is financially unable to perform all or some of the response actions required by the Order. To justify the alleged claim of financial inability, you agreed that the "books" of the Carolan group would be made available. In that regard please provide EPA, by 5:00 p.m., Friday, June 13, 1986, complete copies of all federal corporate income tax returns, accounts receivable and accounts payable logs, and financial statements for the following: (1) Martha C. Rose Chemical, Inc.; (2) American Steel Works, Inc.; (3) W.C. Carolan Company, Inc.; (4) Dust Suppression Systems, Inc.; and (5) any other company/corporation owned in whole or in part by Walter C. Carolan. In addition, please provide complete copies of federal individual income tax returns for Walter C. Carolan. All documents to be provided should be for the years 1982 through the present. The business submitting information pursuant to this paragraph may, if it desires and if it is appropriate, assert a business confidentiality claim covering part or all of the information, in the

manner described by 40 C.F.R. §2.203(b). Information covered by such a claim will be disclosed by EPA only to the extent and by means of the procedures set forth in Subpart B, 40 C.F.R. Part 2. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to the business. Regulations pertaining to confidential business information are contained in Subpart B of 40 C.F.R. Part 2 (1985), as amended at 50 Fed. Reg. 51654 et seq. (December 18, 1985).

Under the terms of paragraph 9 of the Order, Respondents Martha C. Rose Chemicals, Inc., Environmental Technology, Inc., American Steel Works, Inc., W.C. Carolan Company, Inc., and Walter C. Carolan were required to provide, by 5:00 p.m., May 30, 1986, telephonic and written notification as to what actions said Respondents intended to undertake pursuant to the terms of paragraphs 2 through 13 of the Order. EPA agreed to extend this requirement until after the June 3 meeting among the concerned parties. By this letter, the deadline set for providing the required telephonic and written notification is extended to 5:00 p.m., June 10, 1986. Your response of the intent to undertake any of the response actions required by the Order must be absolute and unconditional.

If you have questions regarding this letter, please call me at 236-2809.

Sincerely,



J. Scott Pemberton
Assistant Regional Counsel

cc: John F. Papsidero, Esq.
Kenneth J. Kulinowski
James G. Trimble, Esq.
Daniel Bukovac, Esq.